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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/467,420 12/20/99 HOFF

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EXAMINER

NGUYEN, D

ART UNIT

PAPER NUMBER

2682

DATE MAILED:

09/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

SM

Office Action Summary

Application No.
09/467,420

Applicant(s)
Hoff et al

Examiner
Duc Nguyen

Art Unit
2682



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-7, 9-14, 18-20, 22-28, and 30-32 is/are rejected.
- 7) ☒ Claim(s) 2-4, 8, 15-17, 21, and 29 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 & 5
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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DETAILED ACTION

Information Disclosure Statement

1. The references listed in the information disclosure statements submitted on 4/17/2000 and 6/30/2000 have been considered by the examiner (see attached PTO-1449).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims **1, 5-7, 9-14, 18-20, 22-28, 30-32** are rejected under 35 U.S.C. 103(a) as being unpatentable by Applicant's admitted prior art (pages 3-4), here after **AAPA**, in view of **Miller et al** (US Patent Number **5,956,644**).

Regarding claim **1**, **AAPA** discloses a prior art situation wherein paging messages are frequently given priority over access response messages in order to complete an incoming call in a timely fashion (see **page 3, lines 19-21**). However, **AAPA** fails to disclose that an access response message is given priority over a paging message when it meets a predetermined criterion. However, **Miller** discloses a method for increasing priority level of a task based on waiting times of such task (see **col. 12, lines 51-60**) in order to avoid old lower level task risk the

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chance of not being performed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the above teachings of **AAPA** and **Miller** for increasing priority level of access response messages (lower priority task) based on waiting times of access response messages (read on analyzing access response message situation) and performing an access response when such access response message reaches a predetermined priority level, which would read on limitations of a predetermined criterion as claimed, wherein at least one paging message (higher priority task) is inherently diverted (i.e, delayed) in order to provide bandwidth to perform such access response. Therefore, the claimed limitations are made obvious by **AAPA** and **Miller** for providing a method as claimed, in order to avoid old lower level task risk the chance of not being performed.

Regarding claims 5-6, the claims are rejected for the same reason as set forth in claim 1 above. In addition, **AAPA** and **Miller** as modified would disclose an age of an oldest access response message as claimed (see **Miller**, col. 12, lines 51-60).

Regarding claim 7, the claim is rejected for the same reason as set forth in claim 1 above. In addition, since Applicant fails to produce any evidence which shows superior results of the selection of the predetermined period of time of 1.28 seconds as claimed, it would be within the skill of the art for selecting such period of time, to reduce inconvenience caused by waiting times.

Regarding claims 9-10, **AAPA** and **Miller** as modified would disclose all the claimed limitations, see claim 1 above, except for deleting or delaying at least one paging messages. However, **Miller** discloses that when a priority level task fails, it is downgraded (read on delaying) or discarded (read on deleting) based on the number of fails (see col. 12, lines 39-45).

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Therefore, the claimed limitations are made obvious by **AAPA** and **Miller** for providing a method as claimed, for deleting or delaying paging messages which fails to response.

Regarding claim **11**, **AAPA** and **Miller** as modified would disclose all the claimed limitations, see claim **1** above, except for delaying a paging message until a predetermined period of time elapsed or a bandwidth is available. However, since **Miller** discloses that a message priority level has a **time dependent** component (see col. 12, lines 51-60), it would have been obvious to one of ordinary skill in the art that **AAPA** and **Miller** as modified would obviously comprise steps as claimed, for upgrading a delayed paging message when it reaches a predetermined waiting period, in order to avoid old lower level task risk the chance of not being performed.

Regarding claim **12**, the claim is interpreted and rejected for the same reason as set forth in claim **1** above.

Regarding claim **13**, the claim is interpreted and rejected for the same reason as set forth in claim **11** above.

Regarding claim **14**, **18-20**, **22-26**, the claims interpreted and rejected for the same reason as set forth in claims **1**, **5-7**, **9-13** above, wherein would have been obvious to one of ordinary skill in the art that such a base station inherently comprises such components as recited in the claims, in order perform tasks as recited in claims **1**, **5-7**, **9-13** above.

Regarding claims **27-28**, **30-32**, the claims are interpreted and rejected for the same reason as set forth in claims **1**, **5-7**, **9-13** above.

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Allowable Subject Matter

4. Claims 2-4, 8, 15-17, 21, 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

As to claims 2, 8, 15, 21, 29, the cited prior art fails to disclose or made it obvious a method for providing bandwidth to access response messages (or lower priority messages) by determining whether a number of access response messages awaiting transmission meets a predetermined criterion and if so, diverting at least one paging message (or higher priority messages).

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- **Joseph et al** (US Patent Number 5,574,977), System and method for providing priority access and channel assignment in a cellular telecommunication system.

- **Ueda** (US Patent Number 6,021,307), Communication system having means for enabling channel assignment to calling terminal according to priority.

- **Cassidy et al** (US Patent Number 5,537,684), Method for a communication unit to influence communication resource allocation.

7. **Any response to this action should be mailed to:**

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Commissioner of Patents and Trademarks

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or faxed to:

(703) 872-9314 (for formal communications intended for entry)

or:

(703) 308-6296 (for informal or draft communications, please label

"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or communications from the examiner should
be directed to Duc M. Nguyen whose telephone number is (703) 306-4531 (Monday-Thursday).

Any inquiry of a general nature or relating to the status of this application should be
directed to the Group receptionist whose telephone number is (703) 305-4700.

Duc M. Nguyen 

Sept 18, 2001



**NGUYENT.VO
PRIMARY EXAMINER**